



**Governor's Advisory Council for Exceptional Citizens (GACEC)**  
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### **MEMORANDUM**

**DATE:** February 22, 2016

**TO:** The Honorable Members of the Delaware General Assembly

**FROM:** Robert D. Overmiller, Chairperson  
GACEC

**RE:** **House Bill No. 250 (Choice and Charter School Enrollment: Bullying)**

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed **House Bill No. 250** on school choice and charter school enrollment procedures and bullying. In 2014, the Legislature passed a bill adding instances of "reported and recorded" bullying to the list of reasons why a child could be withdrawn from a choice or charter school before the expiration of the statutory minimum enrollment period or why an application for admission or withdrawal could be accepted outside of the statutory timeframe for submission. According to the synopsis of House Bill No. 250, this bill seeks to clarify and strengthen that law by adding a requirement that the instance of bullying must also be substantiated. The bill is intended to ensure the integrity of the law by limiting its exploitation by persons who wish to change schools for unrelated reasons, while preserving the exception for children truly in need of special consideration due to school bullying.

Currently, schools must accept a "late" choice application based on "good cause" which includes "a reported and recorded instance of 'bullying'". See 14 Del.C. §407(c) and line 8.

Likewise, a student accepted into a "choice" school is expected to maintain enrollment in the school for at least two years unless an exception applies. One of the exceptions (lines 14-15) is a parent option to terminate enrollment "due to a reported and recorded instance of 'bullying'".

Finally, a student accepted at a charter school is expected to maintain enrollment for at least one year unless there is "good cause". "Good cause" is defined as including "a reported and recorded instance of 'bullying'" (lines 24-25).

If enacted, House Bill No. 250 would amend both the choice and charter school laws so the exceptions would apply only if the bullying is “substantiated” (lines 8, 15, and 25).

The synopsis implies that some parents may be exploiting the exception. This is possible since the applicable law requires schools to “record” all bullying allegations and report them to the Department of Education. See 14 Del.C. §4112D. Thus, the mere report of bullying, by itself, is sufficient to qualify for special treatment under the current choice and charter school enrollment standards. Limiting the exceptions to “substantiated” bullying may therefore have some merit.

However, there are countervailing considerations that Council would like to share.

First, bullying is seemingly under-reported in Delaware. National statistics indicate that “about one in four kids in the U.S. are bullied on a regular basis.” See attached NAAAS article. The latest statistics are generally corroborative, i.e., “in 2013, about 22 percent of students reported being bullied during the school year.” See attached National Center for Education Statistics article (May 1, 2015). In contrast, there were 1,706 alleged bullying incidents reported in Delaware in the 2014-15 school year. See attached DOE report. If 22% of Delaware’s 131,000+ public school students were to report bullying (based on the national average), there would be 28,820 reports.

Second, some districts “substantiate” bullying reports at very low rates. For example, the attached DOE report reveals that Delmar substantiated only 5% (3/58) of bullying reports; Appoquinimink substantiated 14% (32/237) of bullying reports; and Lake Forest substantiated 18% (6/34) of bullying reports. Other districts substantiated 100% of bullying reports (Brandywine; 37/37); 83% of bullying reports (NCC Vo-Tech; 10/12); and 78% of bullying reports (Colonial; 63/81).

Given these statistics, the sponsors could consider expanding the exception by adopting either of the following amendments:

“a reported, recorded and substantiated instance of ‘bullying against their child as defined in §4112D of this title or clear and convincing evidence of such bullying”

OR

“a reported, recorded and substantiated instance of ‘bullying against their child as defined in §4112D of this title or written confirmation of such bullying by a medical or mental health professional”.

Either of the two suggested amendments would deter exploiting the exception based on a mere report; however, Council prefers the second amendment since it includes confirmation by a medical or mental health professional. Either revision would offer a parent an option of proffering clear and convincing evidence or therapist confirmation in districts with very low substantiation rates.

Parenthetically, the sponsors may wish to solicit the perspective of the Department of Education on reasons for the disparity in statistics noted on substantiation of bullying by the districts listed.

Thank you for your time and consideration of our observations. Please feel free to contact me or Wendy Strauss should you have any questions.

CC: The honorable Matthew Denn, Delaware Attorney General  
Susan A. Cycyk, M.Ed., CRC, Director, Division of Prevention and Behavioral Health Services  
Steve Yeatman, DPBHS  
Stephanie Hamilton, Victim Rights Task Force

Attachments